

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Order 96-10-24  
Served 10/24/96

Action on IATA Agreement  
Issued by the Department of Transportation  
on the 18th day of October, 1996

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Agreement adopted by the Tariff :  
Coordinating Conferences of the : Docket OST-96-1630  
International Air Transport Association : R-1 through R-4  
relating to U.S.-Europe passenger fares :  
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ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreement was adopted at a TC12 North Atlantic Passenger Tariff Coordination Conference held in Montreal during June 24-28, 1996, and is proposed for expedited effectiveness on November 1, 1996. <sup>1/</sup>

The agreement proposes a number of minor changes to the existing, IATA-agreed U.S.-Europe fare structure. These include revisions to add-on fares used to construct through fares for Yugoslavia and interior points; decreases of about fifteen percent in excursion and APEX fare levels for travel from Romania to the United States; adjustments in the seasonal definitions for excursion, APEX and youth fare travel from France; and the deletion of all IATA-agreed fare conditions and levels for travel between the United States and Austria, Belgium, Germany, the Netherlands, Scandinavia and Switzerland.

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<sup>1/</sup> IATA memoranda TC12 Reso/P 1760 through 1763. In order to meet the conditions of Orders 96-5-27, May 21 1996, and 96-6-33, June 17, 1996, which in granting antitrust immunity to certain carrier alliances precluded each alliance carrier from participating in IATA tariff coordination for certain markets covered by the immunity, the IATA TC12 North Atlantic Traffic Conference meeting did not address fares between the United States and Austria, Belgium, Germany, the Netherlands and Switzerland. In addition, the agreement does not affect U.S.-Scandinavia travel.

We will approve the agreement, subject to previously imposed conditions. Based on the information submitted and other relevant material, we conclude that the agreement, as conditioned above, will not result in fares that are unlawful or injurious to competition in the markets at issue.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolutions, which are incorporated in the agreement in Docket OST-96-1630 and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject to conditions previously imposed:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-96-1630</u>	<u>Reso</u>		
R-1	015v	TC12 North Atlantic Add-on Amounts (except in USA) USA-Europe	1/2
R-2	002h	TC12 North Atlantic Special Amending Resolution from Romania to USA	1/2
R-3	002j	TC12 North Atlantic Special Amending Resolution from France to USA	1/2
R-4	002e	TC12 North Atlantic Special Amending Resolution between USA and Europe	1/2

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under 49 U.S.C. 41308. Consequently, we will grant antitrust immunity to the agreement in

Docket OST-96-1630 as set forth in finding paragraph 1 above ,  
subject, where applicable, to conditions previously imposed.

**ACCORDINGLY,**

We approve and grant antitrust immunity to the agreement contained